IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

CRP.No. 823 of 2001(E)

OP.291/1998 of ADDL. DISTRICT COURT, THALASSERY

.....

REVN. PETITIONER:Respondent

The Kerala State Electricity Board, represented by the Secretary, Vydhyudhi Bhavanam, Pattom, Thiruvananthapuram 4.

BY ADV.
SRI.A.SUDHI VASUDEVAN, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENT:Petitioner

P.V. Kunhamma, Pulivalappil House, Kuttoor P.O., Kannur DT

BY ADV. SRI.SARVOTHAMAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

==========

C.R.P.No.823 of 2001

==========

Dated this the 22nd day of October, 2007.

ORDER

This revision petition is preferred against the order of the Additional District Court, Thalassery in Electricity O.P.No.291 of 1998. The court ordered additional compensation of Rs.76,756/- with 12% interest per annum on Rs.50,026/-. The court below had applied the dictum of this Court reported in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542 whereby this Court held that the value of annuity shall be calculated on the basis of 5% return. In the decision reported in **K.S.E.B.** v. **Livisha** - 2007 (3) K.L.T. 1, the Apex Court held that each case has to be considered depending upon the facts and circumstances of each case. The Court held thus:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and

other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. So, in the light of the above decision, the matter requires reconsideration at the hands of the court below. Therefore, the order under challenge is set aside and the matter is remitted back to the Additional District Court with a direction to consider the matter afresh after affording equal opportunities to both sides to produce documents and adduce evidence and in the light of the enunciated principles laid down in the decision reported in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1. Parties are directed to appear before the court below on 30.11.2007.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 22/10